

OPEN MEETING ITEM



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ORIGINAL

COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE



BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

DATE: DECEMBER 24, 2008

DOCKET NO: W-01445A-06-0059

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 69163)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JANUARY 6, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JANUARY 13, 2009 and JANUARY 14, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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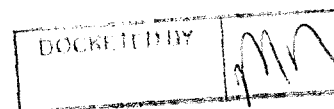
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AZ CORP COMMISSION
DOCKET CONTROL

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
DOCKETED

DEC 24 2008



1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY, AN ARIZONA
10 CORPORATION, TO EXTEND ITS EXISTING
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY AT CASA GRANDE, PINAL
13 COUNTY, ARIZONA.

DOCKET NO. W-01445A-06-0059

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 69163

10 Open Meeting
11 January 13 and 14, 2009
12 Phoenix, Arizona

13 **BY THE COMMISSION:**

14 * * * * *

15 Having considered the entire record herein and being fully advised in the premises, the
16 Commission finds, concludes, and orders that:

17 **FINDINGS OF FACT**

18 1. On February 1, 2006, Arizona Water Company ("AWC") or "Applicant") filed with
19 the Arizona Corporation Commission ("Commission") an application for an extension of its
20 Certificate of Convenience and Necessity ("Certificate" or "CC&N") for its Casa Grande System in
21 Pinal County, Arizona.

22 2. On December 5, 2006, the Commission issued Decision No. 69163 approving the
23 application of AWC for an extension of its CC&N to include five separate parcels, referred to as
24 Parcels 1, 2, 3, 4, and 5. Decision No. 69163 ordered AWC to file the following compliance items:

25 1. "...a copy of one Approval to Construct from the Arizona Department of
26 Environmental Quality for the extension facilities within two years of the
27 effective date of this Decision for each of the five parcels approved by this
28 Decision..."

2. "...a copy of one developer's Certificate of Assured Water Supply, where

1 applicable or when required by statute within two years of the effective date of
2 this Decision for each of the five parcels approved by this Decision..."

3 3. On October 8, 2008, AWC filed a Request for Additional Time for Compliance Filing
4 ("Request") seeking an extension of time, until December 5, 2010, to file the required compliance
5 items for Parcels 2, 4 and 5 in the extension area approved in the Decision. AWC has previously
6 filed all of the compliance items for Parcels 1 and 3, in compliance with the Decision, in the
7 following manner:

- 8 • On February 3, 2006, in Docket No. W-01445A-04-0773, AWC filed copies of main
9 extension agreements and Certificates of Approval to Construct for Parcel 1.
- 10 • On December 18, 2006, in Docket No. W-01445A-04-0773, AWC filed the developer's
11 Certificate of Assured Water Supply issued by the Arizona Department of Water
12 Resources for Parcel 1.
- 13 • On February 12, 2007, in Docket No. W-01445A-06-0059, AWC filed copies of a main
14 extension agreement, a Certificate of Approval to Construct, and a Certificate of Assured
15 Water Supply for Parcel 3.

16 4. AWC's Request further states that AWC is currently serving 588 customers in the
17 expansion area granted in the Decision. AWC attached letters from the property owners for Parcels 2
18 and 5 (dated September 2008), expressing a continued desire to have AWC provide water utility
19 service to their properties.

20 5. On October 28, 2008, AWC filed a Supplementation of Compliance Filing, which
21 included a letter from the property owner of Parcel 4, expressing a continue desire to have AWC
22 provide water service to the property.

23 5. On December 5, 2008, by Procedural Order, Staff was directed to file a response to
24 AWC's request for an extension of time to comply.

25 6. On December 12, 2008, Staff filed a memorandum stating Staff does not object to the
26 AWC's request for an extension of time, until December 5, 2010, to comply with the remaining
27 conditions as set forth in Decision No. 69163. According to Staff, the primary reasons for the delay
28 in development of the remaining parcels was due to the downturn in the housing market, and one
property owner was required to start over with the master planning and rezoning process when the
property was annexed by the City of Casa Grande.

1 7. Staff further recommends that no further extensions of time to comply with Decision
2 No. 69163 be granted.

3 8. AWC made a timely request for an extension of time to comply with Decision No.
4 69163. AWC has met all of the requirements for two of the five parcels granted in the Decision.
5 AWC is currently serving 588 customers in the extension area. The property owners for Parcels 2, 4
6 and 5, have expressed a continuing desire to have AWC provide water service to their properties and
7 they anticipate needing service with the next 24 months. Based on the above facts, we believe AWC's
8 request for an extension of time to comply, until December 5, 2010, with the conditions outlined in
9 FOF 2, for Parcels 2, 4, and 5, is reasonable.

10 9. Staff has recommended that AWC's request for any additional extensions of time to
11 comply with Decision No. 69163 be denied. Although we are not adopting Staff's recommendation
12 that no future requests for extensions of time to comply with Decision No. 69163 be granted, we will
13 put AWC on notice that any further requests for extensions of time to comply must demonstrate that
14 extraordinary circumstances exist that warrant granting additional time.

15 CONCLUSIONS OF LAW

16 1. Arizona Water Company is a public service corporation within the meaning of Article
17 XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

18 2. The Commission has jurisdiction over Arizona Water Company and the subject matter
19 of the Request for Additional Time to Comply with Commission Decision No. 69163.

20 3. Staff's recommendation that AWC should receive an extension of time to comply with
21 Decision No. 69163 is reasonable and should be adopted.

22 ORDER

23 IT IS THEREFORE ORDERED that Arizona Water Company's request for an extension of
24 time to comply, until December 5, 2010, to file a copy of one Approval to Construct and a copy of
25 one developer's Certificate of Assured Water Supply for Parcels 2, 4, and 5, conditionally granted in
26 Commission Decision No. 69163, is hereby granted.

27 IT IS FURTHER ORDERED that Arizona Water Company shall be on notice that any future
28

requests for extensions of time to comply with Decision No. 69163, shall demonstrate that extraordinary circumstances exist or the request for additional time shall be denied.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR: ARIZONA WATER COMPANY
2 DOCKET NO. W-01445A-06-0059
3 Robert W. Geake
4 Vice President and General Counsel
ARIZONA WATER COMPANY
5 P.O. Box 29006
Phoenix, AZ 85038-9006
6 Janice Alward, Chief Counsel
7 Legal Division
ARIZONA CORPORATION COMMISSION
8 1200 West Washington Street
Phoenix, AZ 85007
9 Ernest G. Johnson, Director
10 Utilities Division
ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
Phoenix, AZ 85007
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